IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.1039 OF 2005

IN

SUMMONS FOR JUDGMENT NO.230 OF 2004

IN

SUMMARY SUIT NO.3655 OF 2003

Ajay Mehta and anr. ...Appellants

v/s

Shri Navinchandra A. Doshi ...Respondent

Mr Sanjay Jain i/b Mr Piyush Shah for Appellants.

Mr R.V. Vengurlekar for Respondent.

CORAM : D.K. DESHMUKH AND J.H. BHATIA JJ.

DATE : 8TH OCTOBER 2007.

P.C. :-

1. By consent of parties, appeal is disposed off in following terms.

2. On the appellants depositing an amount of Rs.6,50,000/- in this Court, with due notice to the plaintiff, within a period of four weeks from today, the order impugned in the appeal shall stand set aside. If the amount is not deposited within the aforesaid period, this appeal shall be treated as dismissed.

3. In case the amount is deposited within the aforesaid period, the defendants - appellants shall be permitted to file application for leave to defend and affidavit within a period of four weeks from the date of deposit. Thereafter, Office shall place summons for judgment before the appropriate Court for orders in accordance with law.

4. The disposal of the amount deposited by the defendants shall be governed by the order that may be passed on the summons for judgment.

5. On the amount being deposited, the plaintiff

shall be permitted to withdraw the amount on furnishing bank guarantee to the satisfaction of the Prothonotary and Sr. Master of this Court and by giving an undertaking to bring back the amount if so directed by this Court and on such terms and conditions as may be directed by this Court with further undertaking that in that event, the rate of interest on that amount shall not be less than 12 % p.a. If the amount is not withdrawn within a period of four weeks from the date of deposit by the plaintiff, it shall be invested in fixed deposit in a nationalised bank to the credit of summary suit No.3655 of 2003. Appeal is disposed off. Notice of motion No.2893 of 2007 is disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.

(D.K. DESHMUKH J.)

(J.H. BHATIA J.)